

Appl. No. : 10/715,985
Filed : November 18, 2003

REMARKS

Before entry of this Response, Claims 1-13 were pending. By way of this amendment, Claims 1-13 remain pending. Claims 1 and 8 have been amended.

Claim Rejections under 35 U.S.C. § 102(b)

The Examiner rejected Claims 1, 2, 4, and 5 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,545,143 to Fischell ("Fischell"). Applicant respectfully disagrees with this rejection because Fischell fails to disclose every element of Claim 1. See M.P.E.P. § 2131 (stating that in order to anticipate a claim, a prior art reference must identically teach every element of the claim).

As shown at least in Figs. 10, 11, and 15-17 of the Fischell reference, Fischell teaches an injection assembly having a base with tapered entry holes disposed near the central portion of the base and a connector assembly having locking pins to engage the holes. When the connector assembly is engaged with the base such that the pins are engaged with the holes, rotation of the connector assembly on the base would apparently break the locking pins, destroying the connection between the connector assembly and the base. As such, Fischell does not disclose or suggest an injection assembly wherein "the infusion cap being adapted to rotate with respect to the base while engaged" as recited in Claim 1. Claims 2-7 are dependant on Claim 1 and are similarly patentable at least for the reasons Claim 1 is patentable and because of the additional features recited therein.

Claim Rejections under 35 U.S.C. § 103(a)

The Examiner rejected Claims 3 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Fischell. The Examiner also rejected Claims 6-9 and 11-13 under 35 U.S.C. § 103(a) as being unpatentable over Fischell in view of WO/02/070037 ("Douglas"). Applicant respectfully disagrees with these rejections because Fischell, alone or in combination with Douglas, fails to disclose or suggest all of the elements of the claims. See M.P.E.P. § 2143 (stating that in order to establish a prima facie case of obviousness for a claim, the prior art references must teach or suggest all the claim limitations).

Applicant respectfully disagrees with the Examiner's modification of Fischell with Douglas because such a combination would destroy a fundamental objective of Fischell – to maintain a "one piece main body design." Fischell, 3:16. Fischell therefore teaches away from

Appl. No. : **10/715,985**
Filed : **November 18, 2003**

the Douglas reference which relies on a multiple piece base portion. Thus, it would not have been obvious for one of ordinary skill in the art to modify Fischell with Douglas.

The combination of Fischell with Douglas, albeit inappropriate, still fails to disclose or suggest all of the limitations recited in the claims. As shown at least in Fig. 3 of the Douglas reference, Douglas teaches an infusion hub assembly including several layers: a rectangular wing, a hub, a cover, and a housing. The hub, cover, and housing are stacked upon each other and result in a cylindrical infusion assembly rising above the wing. The housing is attached to the cover and does not appear to include a means for easily releasing the housing from the cover after they are joined. In addition, the housing attaches to protrusions located high on the cover. Douglas fails to disclose or suggest an attachment means located low on the infusion assembly below the septum as recited in independent Claims 1 and 8. Because Fischell, alone or in combination with Douglas, fails to disclose or suggest all of the limitations in the claims, Applicant respectfully requests withdrawal of the Examiner's rejections.

Applicant further submits that Fischell, alone or in combination with Douglas, fails to disclose or suggest an infusion set comprising, among other limitations, "a low-profile, dome shaped infusion cap" as recited in Claim 8. As Applicant noted in paragraph 74 of the application, "the low-profile design diminishes the likelihood that a patient will inadvertently bump or jostle the infusion set during use." Claims 9-13 are dependant on Claim 8 and are similarly patentable at least for the reasons Claim 1 is patentable and because of the additional features recited therein. Applicant respectfully maintains that Fischell, alone or in combination with Douglas, fails to disclose or suggest all of the limitations in the claims and respectfully requests withdrawal of the Examiner's rejections.

Conclusion

In view of the foregoing remarks, Applicant submits that this application as amended is in condition for allowance. If any issues require further clarification, the Examiner is respectfully

Appl. No. : 10/715,985
Filed : November 18, 2003

requested to call Applicant's attorney of record at the number indicated below in order to resolve such issues promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 6/21/06

By: Paul Conover

Paul N. Conover
Registration No. 44,087
Attorney of Record
Customer No. 20,995
(949) 760-0404

AMEND

2361646
020806